

### § 212.3

and the Merchant Marine is not creditable under the Railroad Retirement Act.

#### § 212.3 Crediting of military service.

In determining an individual's entitlement to an annuity and the amount of annuity to be paid under the Railroad Retirement Act, a calendar month or part of a calendar month during which the individual was in the active military service of the United States in a war service period, or period of national emergency, as determined in § 212.4 of this part, may be included in the individual's years of service. Military service is credited as though the individual had performed service for a railroad employer as provided for in part 210 of this chapter, provided that the individual is credited with railroad service in the year of or the year before entrance into active military service. Compensation for creditable military service shall be credited as provided for in § 211.7 of this chapter.

#### § 212.4 Periods of creditable military service.

In order for military service to be considered to be creditable under the Railroad Retirement Act, it must have been performed during one of the following periods:

- (a) April 21, 1898, through August 13, 1898—Spanish American War;
- (b) February 4, 1899, through April 27, 1902—Philippine Insurrection;
- (c) May 9, 1916, through February 5, 1917—Mexican Border Disturbances;
- (d) April 6, 1917, through November 11, 1918—World War I;
- (e) September 8, 1939, through June 14, 1948—National Emergency and World War II. Individuals required to continue in service after this period may be credited with the service if:
  - (1) They were in military service on December 31, 1946, or
  - (2) They were required to remain in military service involuntarily after December 31, 1946;
- (f) June 15, 1948, through December 15, 1950. This service is creditable if:
  - (1) Entered into involuntarily; or
  - (2) Entered into voluntarily, but only if:
    - (i) The individual who seeks credit for this service performs service as an

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employee for an employer as defined in part 202 of this chapter either in the year of his or her release from active military service or in the year following such release, and;

(ii) The individual does not engage in any employment not covered by part 203 between his or her release from active military service and his or her commencement of service for an employer.

(g) December 16, 1950, through September 14, 1978—National Emergency.

[49 FR 46734, Nov. 28, 1984, as amended at 55 FR 20454, May 17, 1990]

#### § 212.5 Verification of military service.

Military service may be verified by the following proof:

(a) The original certificate of discharge or release to inactive duty from a branch of the armed forces that shows the beginning and ending dates of the individual's active military service; or a certified copy of the original certificate made by the Federal, State, county or municipal agency or department in which the original certificate is recorded; or

(b) A certificate from a branch of the armed forces that shows the beginning and ending dates of the individual's active military service; or

(c) A photocopy of the document described in paragraph (a) or (b) of this section.

#### § 212.6 Board's determination for use of military service.

(a) Military service may be creditable under both the Railroad Retirement and Social Security Acts, but there are provisions under those Acts to prevent duplicate use of the service. The Railroad Retirement Board will determine whether an employee's military service should be used as railroad service or as Social Security service. The Board's determination is intended to be to the employee's advantage; however, if the employee does not agree with the Board's determination for use of the employee's military service, the employee may request that it be changed.

(b) Generally, it is to the employee's advantage for the employee's military service to be creditable as railroad